

DECLARATION OF TIMOTHY
FACKLER

EXHIBIT 1

Third-party Defendant Timothy Fackler's
Motion to Dismiss Pursuant to FED. R. CIV. P. 12(b)(2) and (b)(3)
(ECF No. 48).

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI**

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|------------------------------|---|
| SINDOK CO., LTD, |) |
| Plaintiff and |) |
| Counterclaim Defendant |) |
| v. |) |
| GENESYS INDUSTRIAL CORP., |) |
| Defendant and |) |
| Counterclaim Plaintiff |) |
|) Case No. 4:22-cv-00613-GAF | |
| GENESYS INDUSTRIAL CORP. |) |
| Third-Party Plaintiff |) |
| v. |) |
| TIMOTHY FACKLER |) |
| Third-Party Defendant |) |

DECLARATION OF TIMOTHY FACKLER

I, Timothy Fackler, make this declaration under 28 U.S.C. § 1746, and now state as follows:

- (1) My name is Timothy Fackler. I am over the age of eighteen and I am otherwise competent to testify. I am the third-party defendant in the above styled action.
- (2) I currently own and reside at: 1280 East Highway 52, La Grange, Kentucky, 40031. My home is situated within the territorial jurisdiction of the United States District Court for the Western District of Kentucky.
- (3) I have been a continuous and exclusive resident of the Commonwealth of Kentucky since 2005. I live in Jefferson County, Kentucky from 2005 until 2015 and I have lived in Oldham County, Kentucky from 2015 to the present.

- (4) I have held a Kentucky's driver's license since 2005.
- (5) I have been a registered voter in Oldham County, Kentucky, since 2015. I have voted in every election in Oldham County since 2015 for which I was physically present.
- (6) I have worked as a project manager in the construction of automotive production lines for some of the biggest car manufacturers like Toyota, Nissan and Ford since 2002.
- (7) In 2019, through a longstanding relationship I have with Richard Schmidt, president of Lordstown Motor Company in Warren Ohio ("LMC"), I became aware of LMC's desire to build an electric vehicle production facility in Warren, Ohio.
- (8) I travelled to Warren, Ohio and toured the site.
- (9) I was interested in working on the project, and expressed an interest in finding a suitable entity that could help me realize the project.
- (10) I, along with several of my business associates, discussed options on how to complete the LMC project.
- (11) I contacted Roger Hagen, the executive vice president of Genesys to begin discussions on working together on the LMC project in Warren, Ohio.
- (12) I conducted these discussions by starting with telephone and e-mail, and then we progressed to an in-person meeting in Nashville, Tennessee between my team and me and Matthew Perry, Kris Dickerson, Gregory Kelly, and Roger Hagen from Genesys to finalize discussions about moving forward with the LMC project.
- (13) Upon concluding the meeting in Nashville, Tennessee, I arranged for Genesys to join me in Lordstown, Ohio to walk through the plant and meet some of the LMC directors.
- (14) While in Ohio, Genesys representatives, LMC representatives, and I met to discuss bids on the project.

(15) Richard Schmidt and Ron Trautzch, the body shop and stamping director for LMC, desired that I have a role in the project and requested me to review the bidding project.

(16) At the conclusion of the site visit, Genesys offered my team and me employment at Genesys.

(17) While Roger Hagen, on behalf of Genesys, represented that it had an interest in developing a long-term relationship with me, I was adamant that I would not move to Missouri and that I had no intention of completing my career with Genesys.

(18) I informed Genesys prior to any employment relationship that I had an open offer with Lesco, located in Oldham County, Kentucky, and that I fully intended to finish my career with that entity. Lesco is a competitor of Genesys.

(19) Genesys understood and elected to employ me as a remote employee.

(20) I was under the impression that the LMC project itself was to take approximately eight months to ten months.

(21) I received the Genesys offer letter in Kentucky and reviewed, negotiated, executed, and signed my employment contract from Kentucky.

(22) The offer letter sent to me by Genesys did not include a forum-selection clause.

(23) I became an employee of Genesys in January of 2020.

(24) Once employed, I did almost all of my business on the Genesys-LMC project exclusively from my home in Kentucky or at the plant site in Lordstown, Ohio, except for infrequent trips to Missouri.

(25) Once I was hired by Genesys, the Genesys-LMC contract was negotiated and executed in Lordstown, Ohio.

(26) I visited the Missouri office on no more than three (3) occasions for the purpose of discussing the implementation of the Genesys-LMC contract with the Genesys team.

(27) All other meetings in which I participated related to the Genesys-LMC contract were conducted outside of Missouri.

(28) I conducted my site visits for the project in Ohio.

(29) I performed over approximately 65% of my tasks for the Genesys-LMC project from my home office in Kentucky.

(30) I performed the approximately remaining 35% of my tasks related to the Genesys-LMC project on-site in Lordstown, Ohio.

(31) My primary office location during my employment with Genesys was at my home address in Kentucky.

(32) I sent virtually all e-mail correspondence with respect to the Genesys-LMC contract from my home office in Kentucky. When I was on-site at the Lordstown, Ohio plant, I sent work related e-mails, with respect to the Genesys-LMC contract, from Lordstown, Ohio.

(33) None of the e-mail correspondence referenced in the third-party complaint that was allegedly sent by me originated in Missouri.

(34) Any phone conversations I had with personnel at LMC, occurred while I was physically present in Kentucky, or while I was on-site in Lordstown, Ohio.

(35) I did not have any phone conversations with personnel at LMC while I was visiting Genesys in Missouri.

(36) The negotiation for the mutual termination of the Genesys-LMC contract occurred in Lordstown, Ohio and remotely from my office in Kentucky.

(37) I was employed with Genesys for eighteen months, from January, 2020 until February, 2022.

(38) Prior to my limited period and relationship with Genesys, I had not travelled to Missouri for any purposes related to Genesys.

(39) I ceased travelling to Missouri in October 2021 and I have not returned to Missouri since.

(40) I do not own property in Missouri.

(41) I have no obligation to, and I do not, pay taxes of any kind to Missouri, or to any of its political subdivisions, including income taxes.

I declare under penalty of perjury that the foregoing statements of fact are true and correct.

Dated this 21st day of July, 2023.



Timothy Fackler